



State of Rhode Island and Providence Plantations  
**DEPARTMENT OF EDUCATION**  
Shepard Building  
255 Westminster Street  
Providence, Rhode Island 02903-3400

Enclosure 5b  
November 27, 2018

Ken Wagner, Ph.D.  
Commissioner

November 27, 2018

**TO:** Members of the Council of Elementary and Secondary Education

**FROM:** Ken Wagner, Ph.D., Commissioner 

**RE:** Rhode Island League of Charter Schools Variance Request

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I present for your consideration a variance request, by the Rhode Island League of Charter Schools, for the RI Nutrition Requirements 2009 (RINR 2009) Nutrition Criteria for RI School Food Service Programs, or successor regulations that may contain similar requirements.

Variance Request:

On behalf of its member charter schools, The Rhode Island League of Charter Schools seeks a variance of the state-specific requirement for whole grains: *"on a weekly basis, at least one half (1/2) of the grain servings in USDA meals must be one hundred percent (100%) whole grain and the remaining servings be whole grain rich."*

The variance would allow *all* grain servings in USDA meals be *whole grain rich*, consistent with federal nutritional standards. Since the establishment of Rhode Island nutritional regulations in 2009, the Hungry Free Kids Act of 2010 updated federal nutritional guidelines allowing for *all* grain servings to be *whole grain rich*. The federal meal pattern has established age appropriate calorie requirements and daily requirements for fruits and vegetables that address nutritional concerns that the 2009 Rhode Island nutritional guidelines sought to address at the time of adoption.

In accordance with Rhode Island General Law 16-77.3-6, the Commissioner, with the approval of the Council on Elementary and Secondary Education, may grant independent charter schools variances of specific chapters and sections of Title 16, except to the extent that these chapters and sections are enumerated in RIGL 16-77.3-7. As such, the consideration of this variance request is within the purview of the Commissioner given the approval of the Council in Elementary and Secondary Education.

Enclosed Documents:

- Rhode Island League of Charters Variance Request Letter
- United States Department of Agriculture Memorandum RE: Grain Requirements for the National School Lunch Program (NSLP) and the School Breakfast Program (SBP)
- 2009 Rhode Island Governing Nutritional Requirements for Reimbursable Meals and Competitive Food and Beverages



# Rhode Island League of Charter Schools

Keith A. Oliveira  
Executive Director

October 29, 2018

Ken Wagner, Ph.D.  
Commissioner  
Rhode Island Department of Elementary  
and Secondary Education  
255 Westminster Street  
Providence, RI 02903

Dear Commissioner Wagner:

The Rhode Island League of Charter Schools, on behalf of several of our member charter schools, is preparing to engage in a procurement process to secure a food service vendor for the 2019-20 school-year. In so doing, we request your consideration of a variance of the *2009 Regulations Governing Nutritional Requirements for Reimbursable Meals and Competitive Foods and Beverages*.

We seek a variance to the whole grain requirement that *on a weekly basis, at least one half (1/2) of the grain servings in USDA meals must be one hundred percent (100%) whole grain and the remaining servings be whole grain rich.* We seek a variance that would allow *all grain servings in USDA meals be whole grain rich*, which is consistent with federal nutritional standards.

Since the passage of the Rhode Island nutritional regulations in 2009, the federal *Healthy Hungry Free Kids Act of 2010 (HHFKA)* updated the federal nutritional guidelines based upon the most current scientific research and healthy eating patterns and allows for all grain servings to be whole grain rich. Please see the attached USDA memo, dated April 26, 2012, which reflects the extensive research on the issue and the standards by which we intend to comply. Allowing all grain servings to be whole grain rich also aligns with the Dietary Guidelines for Americans (DGA) and the dietary guidelines of the American Heart Association and the American Diabetes Association.

In the absence of strong federal nutrition regulations in 2009, Rhode Island's nutritional regulations limited refined grains and provided a safeguard to increased beneficial nutrients (fiber) and limited non-beneficial nutrients associated with increased risk for chronic disease (sodium, saturated fat, sugar). However, under the HHFKA, the federal meal pattern now addresses these concerns through age appropriate calorie requirements and daily requirements for fruits and vegetables, as referenced in the USDA guidance.

There are also very practical realities of allowing for all grain servings to be 100% whole grain rich. There are very real challenges to finding food products that are 100% whole grain that are also palatable to children. Many of our schools have experienced a significant number of students, most of whom are free and reduced lunch eligible, not eat school meals because they are unpalatable. Also, there is a decreased variety grain offerings that meet the Rhode Island requirements because most school nutrition food service products are formulated to meet the federal whole grain rich standard.

275 Westminster Street • Suite 315 • Providence, Rhode Island 02903  
Ph: (401) 383-6069 • Email: [koliveira@richarterschools.com](mailto:koliveira@richarterschools.com)

Commissioner Ken Wagner

October 29, 2018

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For these reasons, the Rhode Island League of Charter Schools requests your consideration of providing a variance to the Whole Grain/Whole Grain-Rich requirements of the Rhode Island nutritional regulations for reimbursable meals.

Respectfully,

A handwritten signature in blue ink, appearing to read "Keith A. Oliveira", with a long horizontal flourish extending to the right.

Keith A. Oliveira  
Executive Director

Attachment:

- *USDA, Memo Code SP 30-2012: Grain Requirements for the National School Lunch Program and School Breakfast Program.*



United States  
Department of  
Agriculture

Food and  
Nutrition  
Service

3101 Park  
Center Drive

Alexandria, VA  
22302-1500

**DATE:** April 26, 2012

**MEMO CODE:** SP 30-2012

**SUBJECT:** Grain Requirements for the National School Lunch Program and  
School Breakfast Program

**TO:** Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

**SOURCE CITATION:** 42 USC 1753(b)(3) and 1758(a)(4) and 7 CFR Parts 210 and 220

This memorandum explains the grains requirements for the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) and specifically addresses implementation of the ounce equivalencies and definition of whole grain-rich products.

The Department of Agriculture (USDA) published, "Nutrition Standards in the National School Lunch and School Breakfast Programs" on January 26, 2012. This final rule amended NSLP and SBP regulations at 7 CFR 210.10 and 220.8, updating the meal patterns and nutrition standards to align them with the 2010 *Dietary Guidelines for Americans* (DGAs) as required by Sections 4(b) and 9(a)(4) of the Richard B. Russell National School Lunch Act as amended by Section 201 of the Healthy, Hunger-Free Kids Act of 2010. The meal patterns for the NSLP and the SBP include quantities of grains based on ounce equivalencies (oz eq) in a manner that is consistent with the DGAs and the USDA food guidance system known as MyPlate. The amounts of foods included in the meal pattern, including the amount of oz eq of grains, were carefully determined through an extensive review and assessment to meet 24 nutrient targets. NSLP and SBP nutrition standards also require all grains to be whole grain-rich by school year (SY) 2014-2015.

This memorandum sets forth the criteria to be used by school food authorities (SFAs) and program operators to determine grains which meet the regulatory standards and to determine equivalent minimum serving sizes (oz eq). In addition, this memorandum includes examples of foods that qualify as grains based on the nutrition standards in the NSLP and SBP hereafter referred to as "school meal programs."

## **I CRITERIA FOR DETERMINING ACCEPTABLE GRAINS FOR SCHOOL MEAL PROGRAMS**

The requirements to offer whole grain-rich products will be phased in for the school meal programs over the next two SYs:

For **lunch**, beginning July 1, 2012 (SY 2012-2013), through June 30, 2014 (SY 2013-2014), half of the grains offered during the school week must meet the whole grain-rich criteria. Beginning July 1, 2014, (SY 2014-2015), **all** grains must meet the whole grain-rich criteria.

For **breakfast**, beginning July 1, 2013 (SY 2013-2014), half of the grains offered during the school week must meet the whole grain-rich criteria. Beginning July 1, 2014, (SY 2014-2015), **all** grains must meet the whole grain-rich criteria.

Through SY 2013-2014, SFAs and program operators should continue to refer to *Section 3 Grains/Breads* of the *Food Buying Guide for Child Nutrition Programs* and *FCS Instruction 783 - REV 2, The Grains/Breads Requirements for Food-based Menu Planning Alternatives in the Child Nutrition Programs* for guidance on products which meet the grains requirements, but not the whole grain-rich requirements. After SY 2013-2014, all grain must be whole grain-rich in order to meet NSLP and SBP nutrition standards. The USDA is in the process of updating several resources to assist SFAs and program operators with identifying whole grain-rich foods for availability by summer 2012.

### **Whole Grain-Rich Criteria**

In accordance with NSLP and SBP regulations at 7 CFR Parts 210 and 220, the following criteria are to be used as the basis for crediting items to meet the whole grain-rich requirement:

Foods that qualify as whole grain-rich for the school meal programs are foods that contain 100-percent whole grain or contain a blend of whole-grain meal and/or flour and enriched meal and/or flour of which at least 50-percent is whole grain. Whole grain-rich products must contain at least 50-percent whole-grains and the remaining **grain**, if any, must be enriched.

Schools can use the following elements as a simple checklist to evaluate if a grain product meets the whole grain-rich criteria:

Element 1: The food item must meet the oz eq requirements for the grains component as defined by this guidance.

Element 2: The food must meet at least one of the following:

a. The whole-grain content per oz eq based on the attached Exhibit A weights must be at least 8.0 grams or more for Groups A – G. For Groups H and I, the volumes or weights listed must be offered to credit as one oz eq. This information may be determined from information provided on the product packaging or by the manufacturer, if available.

b. The product includes the following Food and Drug Administration-approved whole-grain health claim on its packaging: “Diets rich in whole grain foods and other plant foods and low in total fat, saturated fat, and cholesterol may reduce the risk of heart disease and some cancers.”

c. The product ingredient declaration lists whole grains first, specifically:

- I. Non-mixed dishes (e.g., breads, cereals): whole grains must be the primary ingredient by weight (a whole grain is the first ingredient in the list with an exception for water). When the whole grain content comes from multiple ingredients, the combined whole grain ingredients may be the primary ingredient by weight even though a whole grain is not listed as the first ingredient. These products could meet the whole grain-rich criteria with proper manufacturer documentation. For example, a bread item may be made with three grain ingredients: enriched wheat flour (40% of grain), whole wheat (30% of grain), and whole oats (30% of grain). The program operator, with the assistance of manufacturers, could determine that whole grains were the primary ingredient by weight since the combined 60% whole grain ingredients are greater than the enriched wheat flour at 40% although the enriched flour may be listed first in the ingredient declaration.
- II. Mixed dishes (e.g., pizza, corn dogs): whole grains must be the primary grain ingredient by weight (a whole grain is the first grain ingredient in the list of grains). For foods prepared by the school food service, the recipe is used as the basis for a calculation to determine whether the total weight of whole-grain ingredients exceed the total weight of non whole-grain ingredients.

When flour blends are listed in the ingredient declaration and grouped together with parentheses, for example, ingredients: flour blend (whole wheat flour, enriched flour), sugar, cinnamon, etc., program operators will need to know either that the whole grain content is at least 8.0 grams per oz eq or that the weight of the whole grain is greater than the first ingredient listed after the flour blend such as sugar in the example.

A ready-to-eat (RTE) breakfast cereal must list a whole grain as the primary ingredient and the RTE cereal must be fortified. If the grain product includes enriched ingredients, or the

product itself is enriched; the ingredients or the grain product must meet the Food and Drug Administration's standards of identity for enrichment (21 CFR Section 137). Bran and germ are not creditable in school meal programs. Non-creditable grain ingredients in products at very low levels used as processing aids are allowable at levels less than 2-percent.

Manufacturers may apply for a Child Nutrition (CN) Label for qualifying products to indicate the number of oz eq grains that meet the whole grain-rich criteria. The term, "oz eq grains" on the CN Label indicates the product meets the whole grain-rich criteria, while the terms "bread" or "bread alternate" on the CN Label indicates the product meets previous program requirements for grains/breads. Please refer to the CN Labeling Program website for details regarding qualifying products at: [www.fns.usda.gov/cnd/cnlabeling/](http://www.fns.usda.gov/cnd/cnlabeling/).

## **II CRITERIA FOR DETERMINING EQUIVALENT MINIMUM SERVING SIZES**

Pursuant to the new NSLP and SBP regulations, the updated meal patterns, which include requirements for whole-grain rich grain products based on oz eq, will become effective on July 1, 2012, the beginning of SY 2012-2013. Recognizing that operators and manufacturers which provide products for the school meal programs may require time to change specifications and revise products, we will allow SFAs and program operators to credit grain products based on the current 14.75 grams of grains per serving through SY 2012-2013. All grain products must be credited based on per oz eq standards beginning on July 1, 2013, the beginning of SY 2013-2014.

As provided for in NSLP and SBP regulations, grain products must be credited using the oz eq method. This criterion is applied to various products as follows:

- Baked goods, such as breads, biscuits, bagels, etc., require 16 grams of creditable grain ingredients in order to provide 1 oz eq credit.
- For cereal grains such as oatmeal, pasta, and brown rice, a 1-ounce equivalent is 28 grams (approximately 1.0 ounce by weight) of dry product. Since these grains are served cooked and water is added in preparation, the cooked volume equivalent is ½ cup cooked cereal, pasta, or rice.
- For ready-to-eat (RTE) breakfast cereal, 28 grams *or* 1.0 ounce of product is considered an ounce equivalent. The ounce equivalent volumes are 1 cup flakes or rounds, 1.25 cups puffed cereal, and ¼ cup granola. As with baked goods, we recognize that program operators and manufacturers may need additional time to adjust products and orders with respect to volume requirements for RTE cereal.

The new meal patterns provide a minimum and maximum number of oz eq to meet a weekly grains requirement by age group. All grains offered should be counted toward meeting these minimum and maximum requirements using the ounce equivalent or "bread" or "bread alternate" criteria in the interim. Of the weekly total for lunch, up to two (2.0) oz eq grains per week may be in the form of a grain-based dessert.

During SY 2012-2013, battered and/or breaded products offered will not need to be counted toward the maximum weekly grain requirements in the meal pattern. Beginning July 1, 2013 (SY 2013-2014), all grains which are part of battered and/or breaded products offered must be counted towards the weekly grain requirement.

The contribution of grains in a recipe or product formulation for items listed in Exhibit A, Groups A-G, may be calculated to determine the number of oz eq grains the recipe provides based on 16 grams of grain ingredients per ounce equivalent. The crediting of a food item as oz eq grains is determined by the total amount in grams of whole-grain meal and/or flour or whole-grain and enriched meal and/or flour in the product formulation or recipe divided by the number of servings the formulation or recipe yields divided by the 16 grams per oz eq standard. For the types of food items listed in Groups H and I of the attached Exhibit A to count as one full serving, the weights or volumes listed therein must be used.

One quarter (1/4) of an oz eq is the smallest amount allowable to be credited toward the quantities of grains. If the minimum daily requirement for grains is 1 oz eq, this minimum can be met by offering multiple food items, for example, 0.5 oz eq of one grain item and 0.5 oz eq of another grain item. The oz eq for grains may be determined by using either the weights or volumes listed in the attached Exhibit A, or the SFA may require documentation from a manufacturer certifying the grams of creditable grains per portion for determining the oz eq from a given product.

The attached *Exhibit A: School Lunch and Breakfast* contains the equivalent minimum weights for a wide variety of purchased food items to meet the oz eq criteria. Program operators may use Exhibit A instead of calculating the actual amount of grains in a product since it provides the equivalent minimum weights to provide one oz eq of grains. We note that the listing of food items included in Exhibit A is not exhaustive.

Exhibit A provides oz equivalent information for products commonly offered in schools. SFAs have flexibility to use a wide range of products in planning meals which meet NSLP and SBP meal pattern and nutrition specifications. However, program operators are strongly encouraged to offer food items that are low in added sugars, sodium, and saturated fat in order to meet these requirements and provide foods which are consistent with the Dietary Guidelines for Americans.

#### SUMMARY OF IMPLEMENTATION DATES:

**Ounce equivalent requirements:** All grain products must be credited based on oz eq standards beginning July 1, 2013, the beginning of SY-2013-2014. The grain component weights in the attached *Exhibit A: School Lunch and Breakfast* have been updated to reflect the change from 14.75 grams of creditable grain to 16.0 grams of creditable grain per oz eq



Regional Directors  
State Directors  
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for Groups A-G. The original Exhibit A weights and volumes for all Child Nutrition Programs may continue to be used through June 30, 2013 for lunch and breakfast.

**Whole grain-rich requirements:** for lunch, beginning July 1, 2012 (SY 2012-2013), half of the grains offered during the school week must meet the whole grain-rich criteria. For breakfast, beginning July 1, 2013 (SY 2013-2014), half of the grains offered during the school week must meet the whole grain-rich criteria. Beginning July 1, 2014, (SY 2014-2015), all grains must meet the whole grain-rich criteria for lunch and breakfast.

For NSLP and SBP (sections 210.10, 210.10a, 220.8, and 220.8a), this policy memorandum supersedes FCS Instruction 783 - REV 2, The Grains/Breads Requirements for Food-based Menu Planning Alternatives in the Child Nutrition Programs and the *Food Buying Guide for Child Nutrition Programs* guidance on Grains/Breads. However, the FCS Instruction 783 - REV 2, will be revised to remove the sections mentioned above and will pertain to all other Child Nutrition Programs. State Agencies should contact their Food and Nutrition Service Regional Office with any questions.

**Original Signed**

Cynthia Long  
Director  
Child Nutrition Division

Attachment

**EXHIBIT A: SCHOOL LUNCH AND BREAKFAST**  
**WHOLE GRAIN-RICH OUNCE EQUIVALENCY (OZ EQ) REQUIREMENTS FOR**  
**SCHOOL MEAL PROGRAMS<sup>1,2</sup>**

<b>GROUP A</b>	<b>OZ EQ FOR GROUP A</b>
<ul style="list-style-type: none"> <li>• Bread type coating</li> <li>• Bread sticks (hard)</li> <li>• Chow mein noodles</li> <li>• Savory Crackers (saltines and snack crackers)</li> <li>• Croutons</li> <li>• Pretzels (hard)</li> <li>• Stuffing (dry) Note: weights apply to bread in stuffing.</li> </ul>	1 oz eq = 22 gm or 0.8 oz 3/4 oz eq = 17 gm or 0.6 oz 1/2 oz eq = 11 gm or 0.4 oz 1/4 oz eq = 6 gm or 0.2 oz
<b>GROUP B</b>	<b>OZ EQ FOR GROUP B</b>
<ul style="list-style-type: none"> <li>• Bagels</li> <li>• Batter type coating</li> <li>• Biscuits</li> <li>• Breads (sliced whole wheat, French, Italian)</li> <li>• Buns (hamburger and hot dog)</li> <li>• Sweet Crackers<sup>4</sup> (graham crackers - all shapes, animal crackers)</li> <li>• Egg roll skins</li> <li>• English muffins</li> <li>• Pita bread (whole wheat or whole grain-rich)</li> <li>• Pizza crust</li> <li>• Pretzels (soft)</li> <li>• Rolls (whole wheat or whole grain-rich)</li> <li>• Tortillas (whole wheat or whole corn)</li> <li>• Tortilla chips (whole wheat or whole corn)</li> <li>• Taco shells (whole wheat or whole corn)</li> </ul>	1 oz eq = 28 gm or 1.0 oz 3/4 oz eq = 21 gm or 0.75 oz 1/2 oz eq = 14 gm or 0.5 oz 1/4 oz eq = 7 gm or 0.25 oz
<b>GROUP C</b>	<b>OZ EQ FOR GROUP C</b>
<ul style="list-style-type: none"> <li>• Cookies<sup>3</sup> (plain - includes vanilla wafers)</li> <li>• Cornbread</li> <li>• Corn muffins</li> <li>• Croissants</li> <li>• Pancakes</li> <li>• Pie crust (dessert pies<sup>3</sup>, cobbler<sup>3</sup>, fruit turnovers<sup>4</sup>, and meat/meat alternate pies)</li> <li>• Waffles</li> </ul>	1 oz eq = 34 gm or 1.2 oz 3/4 oz eq = 26 gm or 0.9 oz 1/2 oz eq = 17 gm or 0.6 oz 1/4 oz eq = 9 gm or 0.3 oz

<sup>1</sup> The following food quantities from Groups A-G, must contain at least 16 grams of whole-grain or can be made with 8 grams of whole-grain and 8 grams of enriched meal and/or enriched flour to be considered whole grain-rich.

<sup>2</sup> Some of the following grains may contain more sugar, salt, and/or fat than others. This should be a consideration when deciding how often to serve them.

<sup>3</sup> Allowed only as dessert at lunch as specified in §210.10.

<sup>4</sup> Allowed for desserts at lunch as specified in §210.10, and for breakfasts served under the SBP.

<b>GROUP D</b>	<b>OZ EQ FOR GROUP D</b>
<ul style="list-style-type: none"> <li>• Doughnuts<sup>4</sup> (cake and yeast raised, unfrosted)</li> <li>• Cereal bars, breakfast bars, granola bars<sup>4</sup> (plain)</li> <li>• Muffins (all, except corn)</li> <li>• Sweet roll<sup>4</sup> (unfrosted)</li> <li>• Toaster pastry<sup>4</sup> (unfrosted)</li> </ul>	1 oz eq = 55 gm or 2.0 oz 3/4 oz eq = 42 gm or 1.5 oz 1/2 oz eq = 28 gm or 1.0 oz 1/4 oz eq = 14 gm or 0.5 oz
<b>GROUP E</b>	<b>OZ EQ FOR GROUP E</b>
<ul style="list-style-type: none"> <li>• Cereal bars, breakfast bars, granola bars<sup>4</sup> (with nuts, dried fruit, and/or chocolate pieces)</li> <li>• Cookies<sup>3</sup> (with nuts, raisins, chocolate pieces and/or fruit purees)</li> <li>• Doughnuts<sup>4</sup> (cake and yeast raised, frosted or glazed)</li> <li>• French toast</li> <li>• Sweet rolls<sup>4</sup> (frosted)</li> <li>• Toaster pastry<sup>4</sup> (frosted)</li> </ul>	1 oz eq = 69 gm or 2.4 oz 3/4 oz eq = 52 gm or 1.8 oz 1/2 oz eq = 35 gm or 1.2 oz 1/4 oz eq = 18 gm or 0.6 oz
<b>GROUP F</b>	<b>OZ EQ FOR GROUP F</b>
<ul style="list-style-type: none"> <li>• Cake<sup>3</sup> (plain, unfrosted)</li> <li>• Coffee cake<sup>4</sup></li> </ul>	1 oz eq = 82 gm or 2.9 oz 3/4 oz eq = 62 gm or 2.2 oz 1/2 oz eq = 41 gm or 1.5 oz 1/4 oz eq = 21 gm or 0.7 oz
<b>GROUP G</b>	<b>OZ EQ FOR GROUP G</b>
<ul style="list-style-type: none"> <li>• Brownies<sup>3</sup> (plain)</li> <li>• Cake<sup>3</sup> (all varieties, frosted)</li> </ul>	1 oz eq = 125 gm or 4.4 oz 3/4 oz eq = 94 gm or 3.3 oz 1/2 oz eq = 63 gm or 2.2 oz 1/4 oz eq = 32 gm or 1.1 oz
<b>GROUP H</b>	<b>OZ EQ FOR GROUP H</b>
<ul style="list-style-type: none"> <li>• Cereal Grains (barley, quinoa, etc)</li> <li>• Breakfast cereals (cooked)<sup>5,6</sup></li> <li>• Bulgur or cracked wheat</li> <li>• Macaroni (all shapes)</li> <li>• Noodles (all varieties)</li> <li>• Pasta (all shapes)</li> <li>• Ravioli (noodle only)</li> <li>• Rice (enriched white or brown)</li> </ul>	1 oz eq = 1/2 cup cooked or 1 ounce (28 g) dry
<b>GROUP I</b>	<b>OZ EQ FOR GROUP I</b>
<ul style="list-style-type: none"> <li>• Ready to eat breakfast cereal (cold, dry)<sup>5,6</sup></li> </ul>	1 oz eq = 1 cup or 1 ounce for flakes and rounds 1 oz eq = 1.25 cups or 1 ounce for puffed cereal 1 oz eq = 1/4 cup or 1 ounce for granola

<sup>5</sup> Refer to program regulations for the appropriate serving size for supplements served to children aged 1 through 5 in the NSLP; and meals served to children ages 1 through 5 and adult participants in the CACFP. Breakfast cereals are traditionally served as a breakfast menu item but may be served in meals other than breakfast.

<sup>6</sup> Cereals must be whole-grain, or whole grain and enriched or fortified cereal.

# **TITLE 200 – BOARD OF EDUCATION**

## **CHAPTER 20 – COUNCIL ON ELEMENTARY AND SECONDARY EDUCATION**

### **SUBCHAPTER 25 – GENERAL SCHOOL OPERATIONS**

#### **PART 03 – REGULATIONS GOVERNING NUTRITIONAL REQUIREMENTS FOR REIMBURSABLE MEALS AND COMPETITIVE FOODS AND BEVERAGES; LIMITATIONS ON COMPETITIVE FOODS AND BEVERAGES AT MEAL TIME**

#### **3.1 Authority**

- A. This part is promulgated pursuant to R.I. Gen. Laws §§ 16-8-9, 16-8-10, 16-8-10.1, 16-21-7(c) and further authorized under 7 CFR § 210.11(b) and § 210.19 (e).
- B. The provisions of this Part will be monitored and enforced by RIDE during the USDA Administrative Review Process set forth in 7 CFR § 210.18.

#### **3.2. Purpose**

- A. The purpose of this Part is to maintain high nutrition standards for school meals that are reimbursed by the United States Department of Agriculture and all other food and beverages that are sold on the school campus in Rhode Island. USDA nutritional standards set minimum requirements and states operating the National School Lunch and School Breakfast Programs are permitted to establish more rigorous nutrition requirements or additional requirements for school meals and competitive foods that are not inconsistent with the provisions of USDA rules. The additional nutritional requirements and additional limitations on sales of competitive foods and beverages set forth in this Part will enhance school meals and the school nutrition environment in Rhode Island's schools.

#### **3.3 Definitions**

- A. For the purposes of these Rules and Regulations, the following terms shall have the following meaning:
  - 1. "Competitive foods" means all foods and beverages, other than meals reimbursed under the National School Lunch Act (42 U.S.C. §1751 et seq.) and Child Nutrition Act of 1966 (42 U.S.C. §1771 et seq.) available for sale to students on the school campus during the school day.
  - 2. "Reimbursable meal" means a meal (breakfast, lunch or afterschool snack) which meets all of USDA's meal requirements for reimbursement under the National School Lunch Act (42 U.S.C. § 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. §1771 et seq.).

3. "School campus" means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.
4. "School day" means the period from midnight before, to sixty (60) minutes after, the end of the official school day.

### **3.4 Incorporated Materials**

- A. These regulations hereby adopt and incorporate 7 C.F.R. §§ 210.10, 210.11, 210.18, 210.19 and 220.8 (2018) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

### **3.5 State Specific Requirements**

- A. In addition to the minimum meal requirements for all reimbursable meals set forth in federal regulation (lunches and afterschool snacks established in 7 CFR § 210.10 and school breakfasts established in 7 CFR §220.8) all reimbursable meals must meet the following additional requirements:
  1. On a weekly basis, at least one-half (1/2) of the "grain servings" in USDA meals must be one hundred (100%) per cent whole grain and the remaining "grain servings" must be whole grain rich.
  2. In all menu-planning options, schools will offer each day, at a minimum, two (2) different fruits and/or vegetables at breakfast; three (3) different fruits and/or vegetables at lunch.
  3. No more than one (1) serving of one hundred (100%) percent juice may be offered per day. Juice may be offered at breakfast or at lunch each day, but not at both meals.
  4. No more than two (2) servings of one hundred (100%) percent juice may be offered each week as part of an afterschool snack.
  5. Artificial sweeteners and sugar alcohols are prohibited.
  6. Caffeine, except naturally-occurring trace amounts, is prohibited.
- B. In addition to the minimum requirements for competitive foods and limitations on service of competitive foods established in 7 CFR § 210.11 and R.I. Gen. Laws § 16-21-7, all competitive foods must meet the following additional requirements:
  1. Artificial sweeteners and sugar alcohols are prohibited.
  2. Added sweeteners are prohibited in beverages. This includes but is not limited to high fructose corn syrup, white sugar, brown sugar, corn syrup, dextrose, raw sugar, malt syrup, fructose sweetener, honey, molasses and

fruit juice concentrate. This provision does not apply to flavored non-fat milk or USDA commodities served as part of a reimbursable meal.

3. Caffeine, except naturally-occurring trace amounts, is prohibited.

C In addition to the limitations on service of competitive foods established in 7 CFR § 210.11, competitive foods offered at mealtimes in elementary schools are limited to the following:

1. The entrée that is included in that day's reimbursable meal;
2. The same entrée when served the next school day;
3. Whole or cut fresh fruits;
4. Whole or cut fresh vegetables (may include low-fat dressing or hummus);
5. Yogurt (may be layered with fruit)
6. Water – any size of plain water (with or without carbonation)
7. Fluid Milk – up to eight (8) ounce portions limited to:
  - A. Unflavored low-fat milk (1% fat) or
  - B. Unflavored or flavored fat free milk, or
  - C. Milk alternatives permitted by USDA National School Lunch Program